

JOHN C. CRUDEN  
Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice  
WILLIAM E. GERARD  
JODY H. SCHWARZ  
REBECCA JAFFE  
P.O. Box 7611  
Washington, D.C. 20044  
(202) 305-0475  
(202) 305-0245  
(202) 305-0258  
[william.gerard@usdoj.gov](mailto:william.gerard@usdoj.gov)  
[jody.schwarz@usdoj.gov](mailto:jody.schwarz@usdoj.gov)  
[rebecca.jaffe@usdoj.gov](mailto:rebecca.jaffe@usdoj.gov)  
DAVID A. CARSON  
South Terrace – Suite 370  
999 18th Street  
Denver, CO 80202  
303-844-1349  
[david.a.carson@usdoj.gov](mailto:david.a.carson@usdoj.gov)

CHRISTOPHER A. CROFTS  
United States Attorney  
NICHOLAS VASSALLO (WY Bar #5-2443)  
Assistant United States Attorney  
P.O. Box 668  
Cheyenne, WY 82003-0668  
Telephone: 307-772-2124  
[nick.vassallo@usdoj.gov](mailto:nick.vassallo@usdoj.gov)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

STATE OF WYOMING, et al.,	)	Civil Case No. 15-CV-43-SWS
	)	
<i>Petitioners,</i>	)	(consolidated with 15-CV-41-SWS)
v.	)	
	)	
UNITED STATES DEPARTMENT OF	)	<b>FEDERAL RESPONDENTS’</b>
THE INTERIOR; et al.,	)	<b>RESPONSE TO RESPONDENT-</b>
	)	<b>INTERVENORS’ MOTION FOR</b>
<i>Respondents.</i>	)	<b>FINAL JUDGMENT OR STAY OF</b>
	)	<b>DISTRICT COURT</b>
	)	<b>PROCEEDINGS PENDING</b>
	)	<b>APPEAL</b>

Federal Respondents S.M.R. Jewell, Secretary of the Interior, the United States Department of the Interior, the United States Bureau of Land Management (“BLM”), and Director of the BLM Neil Kornze respectfully submit their response to Respondent-Intervenors’ Motion for Final Judgment or Stay of District Court Proceedings Pending Appeal (ECF No. 143). Federal Respondents do not oppose Respondent-Intervenors’ motion for final judgment, but do oppose their alternative motion for a stay of proceedings pending appeal.

As also set forth in Federal Respondents’ Motion to Bifurcate and Expedite Briefing on Legal Authority, filed concurrently with this Response, we agree with Respondent-Intervenors that the Court’s ruling on the Secretary of the Interior’s statutory authority to promulgate the final hydraulic fracturing rule is dispositive of the case and is a purely legal matter that requires no examination of the administrative record. Thus, both judicial economy and the parties’ strong interests in a prompt resolution of this case would be served by proceeding expeditiously to resolve the statutory authority issue.

We understand, however, that Petitioners intend to oppose Respondent-Intervenors’ motion, and we recognize that consolidation of an order on a preliminary injunction with a ruling on the merits is disfavored when there was no formal notice of consolidation pursuant to Federal Rule of Civil Procedure 65 at or before the preliminary injunction hearing. Unless Petitioners consent to Respondent-Intervenors’ motion for final judgment, therefore, Federal Respondents believe that bifurcating the case and expediting briefing on the question of BLM’s legal authority is the appropriate procedure for prompt resolution of the statutory authority issue.

For similar reasons—prompt resolution of the statutory authority issue and judicial economy—Federal Respondents oppose Respondent-Intervenors’ alternative motion for a stay of proceedings pending any appeal of the preliminary injunction motion. A speedy resolution of

the merits of the legal authority issue is critical, and a stay of the whole case pending appeal would slow that process.

In conclusion, in the interest of promoting judicial economy and achieving a prompt final judgment on the statutory authority issue, Federal Respondents do not oppose Respondent-Intervenors' motion for a final judgment but propose an alternative course of action and oppose Respondent-Intervenors' alternate motion for a stay pending appeal.

Respectfully submitted this 30th day of November 2015.

/s/ Rebecca Jaffe

WILLIAM E. GERARD

JODY H. SCHWARZ

REBECCA JAFFE

P.O. Box 7611

Washington, D.C. 20044

(202) 305-0475

(202) 305-0245

(202) 305-0258

[william.gerard@usdoj.gov](mailto:william.gerard@usdoj.gov)

[jody.schwarz@usdoj.gov](mailto:jody.schwarz@usdoj.gov)

[rebecca.jaffe@usdoj.gov](mailto:rebecca.jaffe@usdoj.gov)

DAVID A. CARSON

U.S. Department of Justice

Environment and Natural Resources Division

South Terrace – Suite 370

999 18th Street

Denver, CO 80202

Telephone: 303-844-1349

Facsimile: 303- 844-1350

[david.a.carson@usdoj.gov](mailto:david.a.carson@usdoj.gov)

CHRISTOPHER A. CROFTS

United States Attorney

/s/ Nicholas Vassallo

NICHOLAS VASSALLO (WY Bar #5-2443)

Assistant United States Attorney

P.O. Box 668

Cheyenne, WY 82003-0668

Telephone: 307-772-2124  
[nick.vassallo@usdoj.gov](mailto:nick.vassallo@usdoj.gov)

*Attorneys for Federal Respondents*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of November 2015 a copy of the foregoing **Federal Respondents' Response to Respondent-Intervenors' Motion for Final Judgment or Stay of District Court Proceedings Pending Appeal** was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Rebecca Jaffe  
REBECCA JAFFE